

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ENEQUE JEAN-LOUIS, ANGEL PINAREYES,
TOMAS TORRES-DIAZ, ROSELIO MENDOZA,
EDWIN PEGUERO, JONNATAL PERALTA, and
ROBIN SORIANO, Individually and on Behalf of
All Other Persons Similarly Situated,

Plaintiffs,

-against-

METROPOLITAN CABLE
COMMUNICATIONS, INC., RICHARD PANG,
JOHN SNYDER, BILL BAKER, PATRICK
LONERGAN, JOHN GAULT, and TIME
WARNER CABLE of NEW YORK CITY, a
DIVISION OF TIME WARNER
ENTERTAINMENT COMPANY, L.P.,

Defendants.

ECF CASE

Index No. 09-cv-6831 (RJH)(MHD)

DECLARATION OF
SHELBY A. SILVERMAN

SHELBY A. SILVERMAN, an attorney duly admitted to the Courts of the State of New York, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an attorney with the firm of Kauff McGuire & Margolis LLP, attorneys for Defendants Metropolitan Cable Communications, Inc. ("Metro") and Time Warner Cable of New York City, a division of Time Warner Entertainment Company, L.P. ("TWCNYC").
2. I have personal knowledge of the facts set forth in this declaration, which I make in support of Defendant Time Warner Cable of New York City's Motion for Summary Judgment.
3. Annexed hereto as Exhibit 1 is a true and correct copy of the Cable Television System Installation Agreement between TWCNYC and Metro.

4. Annexed hereto as Exhibit 2 is a true and correct copy of the July 5, 2002 Extension of Cable Television System Installation Agreement between TWCNYC and Metro.

5. Annexed hereto as Exhibit 3 is a true and correct copy of plaintiff Angel Pinareyes's ("Pinareyes") Form W-4, redacted to prevent disclosure of Pinareyes's home address, phone number and social security number.

6. Annexed hereto as Exhibit 4 is a true and correct copy of plaintiff Robin Soriano's ("Soriano") Form I-9, redacted to prevent disclosure of Soriano's home address, social security number, and driver's license number.

7. Annexed hereto as Exhibit 5 are true and correct copies of Metro Warning Reports to Jean-Louis, with page numbers added for convenience of reference.

8. Annexed hereto as Exhibit 6 are true and correct copies of Metro Warning Reports to Jonnatal Peralta ("Peralta"), with page numbers added for convenience of reference.

9. Annexed hereto as Exhibit 7 is a true and correct copy of a Metro Warning Report to Pinareyes.

10. Annexed hereto as Exhibit 8 are true and correct copies of Metro Warning Reports to Soriano, with page numbers added for convenience of reference.

11. Annexed hereto as Exhibit 9 is a true and correct copy of a Metro Field Evaluation Form to plaintiff Tomas Torres-Diaz (hereinafter "Torres-Diaz"), redacted to prevent disclosure of confidential customer information.

12. Annexed hereto as Exhibit 10 is a true and correct copy of the April 1, 2007 – March 31, 2011 Collective Bargaining Agreement between Metro and Local 3, International Brotherhood of Electrical Workers ("Local 3").

13. Annexed hereto as Exhibit 11 is a true and correct copy of the April 1, 2003 – March 31, 2007 Memorandum of Agreement between Metro and Local 3.

14. Attached hereto as Exhibit 12 is a true and correct copy of plaintiff Edwin Peguero's (hereinafter "Peguero") November 27, 2009 Earnings Statement, redacted to prevent disclosure of Peguero's home address.

15. Attached hereto as Exhibit 13 is a true and correct copy of Pinareyes' March 16, 2007 Earnings Statements, redacted to prevent disclosure of Pinareyes' home address, social security number, and phone number.

16. Annexed hereto as Exhibit 14 are true and correct copies of Jean-Louis's Payroll Deduction Forms for missing converters, with page numbers added for convenience of reference.

17. Annexed hereto as Exhibit 15 are true and correct copies of Jean-Louis's Payroll Deduction Forms for parking tickets, with page numbers added for convenience of reference.

18. Annexed hereto as Exhibit 16 are true and correct copies of former Metro technician David Rodriguez's 2004 and 2005 Form W-2s, redacted to prevent disclosure of Rodriguez's home address and social security number.

19. Annexed hereto as Exhibit 17 are true and correct copies of Jean-Louis's Metro Time Out Request Forms, with page numbers added for convenience of reference.

20. Annexed hereto as Exhibit 18 is a true and correct copies of Pinareyes's Metro Time Out Request Form.

21. Annexed hereto as Exhibit 19 is a true and correct copy of the April 3, 2008 Metro Training Sign-In Sheet.

22. Annexed hereto as Exhibit 20 are true and correct copies of Jean-Louis's Metro Tool Issue and Tool Purchase Forms, with page numbers added for convenience of reference.

23. Annexed hereto as Exhibit 21 are true and correct copies of Pinareyes's Metro Tool Issue and Tool Purchase Forms, with page numbers added for convenience of reference.

24. Annexed hereto as Exhibit 22 is a true and correct copy of the June 16, 2004 Metro memorandum to former Metro technician David Rodriguez.

25. Annexed hereto as Exhibit 23 is a true and correct copy of the January 7, 2005 written warning to former Metro technician David Rodriguez.

26. Annexed hereto as Exhibit 24 is a true and correct copy of the TWCNYC identification badge for Metro employee Javiel Rodriguez.

27. Annexed hereto as Exhibit 25 is a true and correct copy of a receipt for truck repairs and payment record from Metro made out to Pinareyes, with page numbers added for convenience of reference.

28. Annexed hereto as Exhibit 26 is a true and correct copy of a fax from Jean-Louis to Bill Baker, dated July 30, 2008, with page numbers added for convenience of reference.

29. Annexed hereto as Exhibit 27 are true and correct copies of the October 6, 2009, February 5, 2010, March 24, 2010, May 27, 2010, and June 23, 2010, Installer Contractor Meeting Agendas.

30. Annexed hereto as Exhibit 28 is a true and correct copy of the e-mail correspondence between Metro and TWCNYC, dated June 8, 2009 and June 10, 2009, redacted to prevent disclosure of a customer's address and phone number.

31. Annexed hereto as Exhibit 29 is a true and correct copy of the e-mail correspondence between Metro and TWCNYC, dated August 10, 2006 and August 11, 2006.

32. Annexed hereto as Exhibit 30 is a true and correct copy of the e-mail correspondence between Metro and TWCNYC, dated November 9, 2006 and November 20, 2006.

33. Annexed hereto as Exhibit 31 are true and correct copies of the Metro technician lists e-mailed to TWCNYC in January 2009.

34. Annexed hereto as Exhibit 32 is a true and correct copy of the April 27, 2007 Order of the Family Court of the State of New York, redacted to prevent disclosure of Soriano's social security number and the names and birth dates of minor children.

35. Annexed hereto as Exhibit 33 is a true and correct copy of the Income Execution that was served on Metro on January 28, 2009, redacted to prevent disclosure of Jean-Louis's social security number and home address and with page numbers added for convenience of reference.

36. Annexed hereto as Exhibit 34 is a true and correct copy of the June 5, 2008 Notice to Withhold Income for Child Support, redacted to prevent disclosure of Jean-Louis's social security number and with page numbers added for convenience of reference.

37. Annexed hereto as Exhibit 35 is a true and correct copy of the Request for Verification of Employment, redacted to prevent disclosure of Peralta's social security number and home address.

38. Annexed hereto as Exhibit 36 are true and correct copies of the Peralta employment verification letters prepared by Metro, redacted to prevent disclosure of Peralta's social security number and with page numbers added for convenience of reference.

39. Annexed hereto as Exhibit 37 is a true and correct copy of the Soriano employment verification letter prepared by Metro, redacted to prevent disclosure of Soriano's social security number.

40. Annexed hereto as Exhibit 38 is a true and correct copy of the Mendoza employment verification letter prepared by Metro, redacted to prevent disclosure of Mendoza's social security number.

41. Annexed hereto as Exhibit 39 is a true and correct copy of Peralta's Explanation of Benefits, dated September 16, 2008, redacted to prevent disclosure of Peralta's home address.

42. Annexed hereto as Exhibit 40 is a true and correct copy of the January 30, 2008 Metro Training Sign-In Sheet and Tech Tip.

43. Annexed hereto as Exhibit 41 is a true and correct copy of the relevant transcript pages from the deposition of Thomas Allen, dated August 2, 2010.

44. Annexed hereto as Exhibit 42 is a true and correct copy of the relevant transcript pages from the deposition of John William Baker, dated July 1, 2010.

45. Annexed hereto as Exhibit 43 is a true and correct copy of the relevant transcript pages from the deposition of Louis Digiandomenico, dated August 4, 2010.

46. Annexed hereto as Exhibit 44 is a true and correct copy of the relevant transcript pages from the deposition of Eneque Jean-Louis, dated March 9, 2010.

47. Annexed hereto as Exhibit 45 is a true and correct copy of the relevant transcript pages from the deposition of Roselio Mendoza, dated June 9, 2010.

48. Annexed hereto as Exhibit 46 is a true and correct copy of the relevant transcript pages from the deposition of Edwin Peguero, dated June 17, 2010.

49. Annexed hereto as Exhibit 47 is a true and correct copy of the relevant transcript pages from the deposition of Jonnatal Peralta, dated June 17, 2010.

50. Annexed hereto as Exhibit 48 is a true and correct copy of the relevant transcript pages from the deposition of Angel Pinareyes, dated March 8, 2010.

51. Annexed hereto as Exhibit 49 is a true and correct copy of the relevant transcript pages from the deposition of Robin Soriano, dated June 22, 2010.

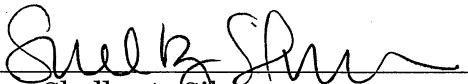
52. Annexed hereto as Exhibit 50 is a true and correct copy of the relevant transcript pages from the deposition of Tomas Torres-Diaz, dated June 8, 2010.

53. Attached hereto as Exhibit 51 is a true and correct copy of the Court's decision in *Valdez v. Cox Comm. Las Vegas*, No. 09-01797 (PMP) (D. Nev. Sept. 13, 2010).

54. Attached hereto as Exhibit 52 is a true and correct copy of the Court's decision in *Smilie v. Comcast Corp.*, No. 07-CV-3231 (MES) (N.D. Ill. Feb. 25, 2009).

I declare under penalty of perjury that the foregoing is true and correct.

Executed November 8, 2010.


Shelby A. Silverman